

## Message Text

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ACTION DLOS-07

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DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07 PA-04

RSC-01 PRS-01 SP-03 SS-20 USIA-15 FEA-02 CEQ-02

COA-02 COME-00 EB-11 EPA-04 NSF-04 SCI-06 ACDA-19

AEC-11 AGR-20 DOTE-00 FMC-04 INT-08 JUSE-00 OMB-01

OIC-04 DRC-01 /220 W

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R 050130Z JUN 74

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 7111

INFO AMEMBASSY BANGKOK

AMEMBASSY JAKARTA

AMEMBASSY MANILA

AMEMBASSY NEW DELHI

AMEMBASSY SINGAPORE

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C O N F I D E N T I A L SECTION 1 OF 3 KUALA LUMPUR 2607

E.O. 11652: GDS

TAGS: PBOR, TH, US, IN

SUBJECT: LOS: TEAM DISCUSSIONS IN BANGKOK

REF: STATE 115665

1. SUMMARY: RTG APPEARS TO HAVE CONCLUDED THAT ITS BASIC INTERESTS IN LOS CONFERENCE ARE NAVIGATION (STRAITS AND ARCHIPELAGOS) AND DISTANT WATER FISHERIES (ARCHIPELAGOS AND ECONOMIC ZONE). THEY EXPRESSED VIEW THAT US APPROACH TO STRAITS AND ARCHIPELAGOS SATISFIES THEIR INTERESTS, BUT SAID THEY WILL NOT SUPPORT OR OPPOSE OVERFLIGHT OF STRAITS. HOWEVER, CONFIDENTIAL

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THEY DO NOT WISH TO OPPOSE THEIR ASEAN PARTNERS, AND

AT BEST CAN BE EXPECTED TO WORK PRIVATELY. THEY WOULD LIKE TO LIMIT JURISDICTION OF SMALL ISLANDS IN CONTEXT LATERAL DELIMITATION PROBLEMS. END SUMMARY.

2. LOS TEAM OF OXMAN, AKE, LEITZEL, AND HULL AND EMBOFF SLOTT MET WITH REPS OF RTG IN BANGKOK 3 JUNE. RTG REPS CONSISTED OF DR ARUN PHANUPHONG, DIRECTOR GENERAL OF POLITICAL DEPT, MFA; MR SUCHINDA YONGSUNTHORN, LEGAL DEPT, MFA; MR SANAN, FISHERIES DEPT, MINISTRY OF AGRICULTURE AND COOPERATIVES; MR MONTRI JALICHANDRA, CHIEF OF TREATY DEPT, MFA; DR SAWASDI, TREATY DEPT, MFA; AND MR SOMBOON SHALERMSRI, TREATY DEPT, MFA. FIRST THREE REPS ARE SCHEDULED TO BE ON CARACAS DELEGATION, AS WELL AS MR BHIRAPHONGSE KASEMARI, COUNSELOR OF THE THAI MISSION TO THE UN. CAPT ANAND, CHIEF OF LEGAL DIVISION, ROYAL THAI NAVY, WAS UNABLE TO ATTEND BECAUSE OF ILLNESS, BUT IS EXPECTED TO BE ON THE CARACAS DELEGATION.

3. AS A GENERAL PROPOSITION, THAILAND WOULD PREFER TO RETAIN THE REGIME OF THE 1958 GENEVA CONVENTIONS. THEY RECOGNIZE, HOWEVER, THAT CHANGE IS INEVITABLE, AND ARE SEEKING MEANS OF BEST PROTECTING THEIR INTERESTS. THEY HAVE CONCENTRATED THUS FAR ON FREEDOM OF NAVIGATION AND DISTANT WATER FISHING RIGHTS, BUT HAVE NOT BEEN ABLE TO DEVELOP ACCEPTABLE ACCOMMODATIONS. OTHER ISSUES ARE NOT PERCEIVED AS CENTRAL TO THAI INTERESTS.

4. POSITIONS ON NAVIGATIONAL ISSUES ARE AS FOLLOWS:

A. STRAITS: THAILAND'S INTEREST IS IN UNIMPEDED PASSAGE. IF INNOCENT PASSAGE IS ACCEPTED, THAILAND WOULD ADVOCATE THAT IT SHOULD BE MADE MORE OBJECTIVE. STRAITS, HOWEVER, PREFERABLE SHOULD NOT BE GIVEN THE SAME TREATMENT AS THE TERRITORIAL SEA. THE THAIS HAVE NO STRONG FEELING ON SUBMERGED TRANSIT, AND CAN GO EITHER WAY. OVERFLIGHT IS VIEWED IN THE CONTEXT OF THE ARCHIPELAGO PROBLEM RATHER THAN STRAITS, AND THAILAND WILL PROBABLY REMAIN SILENT ON OVERFLIGHT OF STRAITS AT THE CONFERENCE.

B. ARCHIPELAGOS: THE THAIS VIEW THEMSELVES  
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AS WITHIN A SEMI-ENCLOSED SEA BECAUSE OF ARCHIPELAGO CLAIMS. THEY DO NOT LIKE THE ARCHIPELAGO CONCEPT AS PRESENTLY FORMULATED. THEIR INTERESTS AFFECTED ARE NAVIGATIONAL AND ECONOMIC (PREDOMINANTLY FISHING). THEY HAVE TOLD INDONESIA THAT THE EXISTING CLAIM IS THE MOST RADICAL KNOWN TO INTERNATIONAL LAW, AS IT IS NOT MERELY AN EXTENSION OF AN EXISTING JURISDICTION, BUT A COMPLETELY NEW CLAIM TO AREAS OF THE HIGH SEAS. THEY SAID THAILAND

AND THE US ARE IN THE "SAME BOAT" EXCEPT FOR THAILAND BEING A NEIGHBOR OF THE CLAIMANTS. THUS, THEY HAVE AGREED WITH OTHER ASEAN COUNTRIES NOT TO OPPOSE INDONESIA AND PHILIPPINES FOR NOW, BUT HAVE "PLEADED" WITH THEM TO MAKE SOME ADJUSTMENT. AT NAIROBI, THAILAND, MALAYSIA, AND SINGAPORE PRIVATELY TOOK A COMMON POSITION IN OPPOSITION TO THE PRESENT FORMULATION, WHICH THEY CONVEYED TO INDONESIA. "FORTUNATELY" INDONESIA'S EFFORTS AT NAIROBI WERE A "COMPLETE FAILURE", AND THERE WAS NO NEED TO "PRODUCE A PAPER." ALSO AT NAIROBI THE THAIS FIRST HEARD OF INDIA'S DESIRE FOR ARCHIPELAGO TREATMENT IN THE ANDAMAN AND NICOBAR ISLANDS AND WERE "COMPLETELY TAKEN BY SURPRISE." INDONESIA CONDUCTED PRIVATE CONSULTATIONS WITH INDIA AT NAIROBI, AND THE THAIS ARE NOT PRIVY TO THE RESULTS. HOWEVER, INDONESIA ACCEPTED THE "INDIAN AMENDMENT" (REMOVING LIMITATION TO ISLAND STATES) AT NAIROBI. AT AN EARLIER TIME, DR JAGOTA HAD TOLD MR MONTRI THAT HIS IDEA OF AN ACCEPTABLE CONCEPT WOULD BE A MATHEMATICAL FORMULA FOR DEFINITION, AND NO REPEAT NO ECONOMIC ZONE OUTSIDE THE BASELINES. THUS, THE THAIS ASSESS THE INDIAN APPROACH AS ONE DESIGNED EITHER TO DEFEAT THE ARCHIPELAGO CONCEPT WITHOUT HAVING TO OPPOSE IT, OR SHOULD IT SUCCEED, TO PLACE INDIA IN A MORE FAVORABLE POSITION FOR PURPOSES OF LATERAL DELIMITATION OF RESOURCE JURISDICTION. TEAM POINTED OUT THAT IF ALL CLAIMANTS WERE SUCCESSFUL, THAILAND WOULD BE IN EFFECT A LAND LOCK COUNTRY. WE EXPLAINED US VIEWS AS TO MODIFICATIONS CLAIMANTS WOULD HAVE TO MAKE IN ORDER TO RENDER CONCEPT ACCEPTABLE. IN RESPONSE TO SPECIFIC QUESTIONS, WE STATED CONCEPT WOULD NOT APPLY TO MARITIUS AND THAT WE DID NOT ANTICIPATE US SUPPORT FOR ANY ARCHIPELAGO CONCEPT EXCEPT IN CONTEXT OF SATISFACTORY

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PROVISIONS ON DEFINITION AND NAVIGATION THAT HAVE SUPPORT OF ARCHIPELAGO STATES. THE THAIS FEEL THE PROBLEM SHOULD BE SETTLED IN THE LOST TREATY ONCE AND FOR ALL, AND SHOULD BE DONE IN SUCH A WAY THAT ELIGIBLE STATES ARE CLEARLY IDENTIFIED, AND CONCEPT COULD NOT BE MISAPPLIED IN THE FUTURE IN THAILAND'S "NEIGHBORING SEAS."

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R 050130Z JUN 74

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 7112

INFO AMEMBASSY BANGKOK

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C O N F I D E N T I A L SECTION 2 OF 3 KUALA LUMPUR 2607

ACCOMMODATIONS AS OUTLINED BY US MEET NEEDS OF THAILAND, AND  
PROBABLY MALAYSIA AND SINGAPORE, HOWEVER, THAILAND ALSO WANTS  
GUARANTEES FOR THEIR TRADITIONAL FISHING AND DESIRES  
SPECIFIC TREATY PROVISIONS, NOT JUST A VAGUE PROMISE  
OF BILATERALS. REGARDLESS OF ALL THIS, THEY STILL FEEL  
THEY CANNOT OPPOSE INDONESIA IN AN INTERNATIONAL FORUM.  
TEAM RESPONDED BY EMPHASIS ON MUTUAL INTERESTS OF RTG  
AND USG, INCLUDING STRATEGIC ASPECTS, BUT EXPRESSED  
UNDERSTANDING OF THEIR WISH TO AVOID PUBLIC CONFRONTATION  
WITH INDONESIA IF POSSIBLE. TEAM OUTLINED  
POSSIBLE APPROACHES FOR THAIS TO DEVELOP WITHIN ASEAN  
GROUP TO LET INDONESIA KNOW THAT INTERESTS OF OTHER  
MEMEBERS MUST BE ACCOMMODATED IN ACCEPTABLE FORUMULATION  
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OF ARCHIPELAGO CONCEPT.

5. FISHERIES.THE DISCUSSION ON FISHING OPENED WITH

THE THAIS ADVISING THAT THE SOVIET AMBASSADOR HAD RECENTLY PRESENTED AN AIDE MEMOIRE WHICH INCLUDED THE 200 MILE ZONE. THAILAND'S COASTAL FISHERIES ARE NOT PROMISING, AND THEY ARE PREDOMINANTLY A DISTANT WATER FISHING STATE. THEY EXPRESSED THE VIEW THAT THE US PROPOSAL FOR MAXIMUM UTILIZATION IS A PERFECTLY VALID CONCEPT WHICH THEY DO NOT SEE HOW ANYONE COULD OPPOSE. THEY NOTED THAT BURMA HAS RICH COASTAL FISHERIES WHICH IT DOES NOT UTILIZE. THE THAIS, HOWEVER, VIEW THE CHARGING OF LICENSE FEES AS INCONSISTENT WITH THE MORAL ARGUMENTS FOR FULL UTILIZATION. THEY ARE ALSO APPREHENSIVE ABOUT THE USE OF LICENSE FEES AS AN INSTRUMENT FOR OTHER PURPOSES. THEIR INTEREST IS PRIMARILY IN THE PROTECTION OF THEIR TRADITIONAL FISHING RIGHTS, AS REFLECTED IN THE FOREGOING DISCUSSION OF ARCHIPELAGOS. IN THIS REGARD THEY NOTED THAT THE PHILIPPINES HAD OPPOSED TRADITIONAL FISHING RIGHTS AT NAIROBI. THE THAIS ALSO INQUIRED ABOUT PROPOSED US LEGISLATION TO EXTEND THE US FISHERIES ZONE, AND STATED THAT THEY WERE "NOT HEARTENED BY THIS NEWS."

6. COASTAL STATE SEABEDS JURISDICTION. THAILAND HAS NOT GIVEN MUCH CONSIDERATION TO THE OUTER LIMIT OF THE ECONOMIC ZONE, AND FEELS THAT ANY GENERALLY AGREED LIMITATION WOULD PROBABLY BE ACCEPTABLE TO THEM. THEY NOTE THAT THE MAXIMUM DEPTH OF THE GULF OF THAILAND IS 86 METERS, AND THERE WILL BE DELIMITATION PROBLEMS IN ANY EVENT. THEY HAVE NO INTEREST IN THE MARGIN BEYOND 200 MILES. THERE ARE A LARGE NUMBER OF ISLANDS IN THE GULF, AND THE STATES CONCERNED WILL HAVE TO FIND A WAY TO ACCOMMODATE THEIR NEIGHBORS. THEY FEEL THAT IT WOULD BE UNFAIR TO USE SMALL ISLANDS FOR DELIMITATION PURPOSES, AND OPPOSE FULL RESOURCE JURISDICTION FOR SUCH ISLANDS LOCATED NEAR THE COASTS OF OTHER STATES. THEY NOTED THAT TURKEY PRESENTED A PAPER AT NAIROBI. AFTER WE EXPLAINED DISRUPTIVE NATURE OF ISSUE, AND LIKELIHOOD THAT NEITHER SIDE CAN PREVAIL, THEY SAID THAILAND PLANS TO DO NO MORE THAN SAY A FEW WORDS ON THE SUBJECT AT

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CARACAS, AND WILL NOT PARTICIPATE IN AN ISLANDS DEBATE. THEY EXPRESSED WILLINGNESS TO SIGN A TREATY MAKING NO REFERENCE TO ISLANDS, LEAVING THE MATTER TO BILATERAL RESOLUTION. NO COMMENTS WERE MADE ON STANDARDS.

7. COMPULSORY DISPUTE SETTLEMENT. THE THAIS NOTED THE GENERAL RELUCTANCE OF ASEAN COUNTRIES TO ACCEPT COMPULSORY DISPUTE SETTLEMENT, WHICH THEY VIEW AS A DEROGATION OF SOVEREIGNTY. THAILAND GENERALLY SHARES THIS VIEW, BUT HAS TAKEN A DIFFERENT APPROACH FOR

PURPOSES OF THE LOS CONFERENCE ONLY, AND CONSIDERS CDS VIRTUALLY "INDISPENSABLE" FOR THE LOS TREATY. THEY NOTED THAT THEY FIND CANADA, INDIA, SRI LANKA PROPOSAL THAT FISHERIES DISPUTES BE SETTLE IN THE COURTS OF THE COASTAL STATE TO BE "ALARMING."

8. DEEP SEABEDS. THAILAND HAS NOT DEVOTED MUCH ATTENTION TO THE DEEP SEABEDS REGIME. THEIR DELEGATION WILL HAVE CONSIDERABLE FLEXIBILITY AT CARACAS. THEY ARE SOMEWHAT HESITANT ON NON-DISCRETIONARY ACCESS IN VIEW OF THE GENERALLY HELD VIEW OF DEVELOPING COUTRIES THAT SUCH A SYSTEM WOULD WIDEN THE GAP BETWEEN RICH AND POOR. THEY HAVE NO STRONG FEELINGS, HOWEVER, AND CONSIDER THE SUBJECT SPECULATIVE AT THIS TIME, AND NOT OF THE IMMEDIACY OF NAVIGATIONAL AND FISHING PROBLEMS.

9. RESEARCH. THE MAIN PROBLEM WITH SCIENTIFIC RESEARCH FROM THE THAI VIEWPOINT IS THE DIFFICULTY OF DISTINGUISHING BETWEEN COMMERCIAL EXPLORATION AND PURE SCIENTIFIC RESEARCH. TEAM EXPLAINED THAT COMMERCIAL OPERATORS COULD NOT AGREE TO REQUIREMENT OF US ARTICLES SUCH AS PARTICIPATION AND PUBLICATION, AND THUS WOULD HAVE TO DEAL WITH COASTAL STATE ON A CONSENT BASIS; MOREOVER, NO RESPONSIBLE GOVERNMENT WOULD GIVE FALSE CERTIFICATION OF BONA FIDES. THE THAIS EXPRESSED SATISFACTION WITH THESE ASPECTS OF THE US ARTICLES, AND ALSO NOTED IT WOULD ALLEVIATE THEIR CONCERN ABOUT SOVIET VESSELS CONDUCTING UNKNOWN TYPES OF RESEARCH 20 MILES OFF THEIR COAST.

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C O N F I D E N T I A L SECTION 3 OF 3 KUALA LUMPUR 2607

10. POLLUTION. THAILAND OPPOSES A ZONAL APPROACH TO POLLUTION BECAUSE OF THE DANGER OF CREEPING JURISDICTION, AND WOULD OPPOSE ANY POLLUTION CONTROL MEASURES WHICH WOULD IMPEDE NAVIGATION. THEY PREFER A "REPARATIONS" APPROACH RATHER THAN PREVENTIVE MEASURES.

11. PROVISIONAL APPLICATION. PROVISIONAL APPLICATION HAS NOT RECEIVED MUCH CONSIDERATION FROM THE RTG, BUT THEY DO NOT BELIEVE THEY WOULD HAVE ANY OBJECTIONS. THEY DID NOTE THAT THE US PROPOSAL HAS BEEN WIDELY MISUNDERSTOOD, AS MANY COUNTRIES BELIEVE WE HAVE PROPOSED A PROVISIONAL REGIME WHICH MIGHT BE INCONSISTENT WITH THE REGIME AGREED IN THE TREATY. (RATHER THAN PROVISIONAL  
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APPLICATION OF THE FINAL REGIME). THEY SUGGESTED THAT THE US PROPOSAL SHOULD BE CLARIFIED AT CARACAS. IN VIEW OF THEIR DISTANT WATER FISHING INTERESTS, WE EXPLAINED THAT IN ABSENCE PROVISIONAL APPLICATION OF TREATY REGIME THAT INCLUDES ACCOMMODATIONS FOR DISTANT WATER INTERESTS, STATES MIGHT WELL MAKE UNILATERAL CLAIMS THAT DID NOT INCLUDE SUCH ACCOMMODATIONS.

12. AT THE CONCLUSION OF DISCUSSIONS, BOTH SIDES EXPRESSED SATISFACTION AT THE BROAD AREAS OF AGREEMENT, AND AGREED TO KEEP IN CLOSE TOUCH AT CARACAS.

13. RECOMMENDATION. RTG IS RELATIVELY SHY ABOUT ACTIVE SUPPORT FOR ITS NAVIGATION INTERESTS, WHICH THEY RECOGNIZE PARALLEL THOSE OF US. WE SHOULD REMAIN IN CONSTANT TOUCH, IF ONLY TO GIVE THEM MORAL SUPPORT, AND SHOULD EMPHASIZE PRIVATE RATHER THAN PUBLIC ACTIVITY BY THEIR DELEGATION, AND JUSTIFICATION FOR ACTIVE DEFENSE OF THAI NAVIGATION INTERESTS. RELATIONSHIP TO US SECURITY INTERESTS SHOULD NOT BE STRESSED, AS RG SEEMS PARTICULARLY

SENSITIVE TO PROTECTING INDEPENDENT ROLE.  
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